

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Harold Oakes

v.

Civil No. 12-cv-298-SM

Edward Reilly, Warden, Northern New
Hampshire Correctional Facility

O R D E R

On December 11, 2012, this court directed Oakes either to demonstrate exhaustion of the federal claims presented in this habeas action, or to seek a stay of this matter while he exhausts those claims in the state courts. See Order (doc. no. 2). Responding to that order, Oakes now moves for a stay (doc. no. 3).

The motion to stay (doc. no. 3) is GRANTED.

The court further orders:

1. Within thirty days of the date of this action, Oakes must commence the state court proceedings necessary to exhaust the claims this matter, if they are not already pending in the state courts.
2. Every ninety days, beginning ninety days from the date of this order, Oakes must file a status report advising the court as to the status of the state court exhaustion proceedings.
3. Within thirty days of receiving a final disposition of the exhaustion proceedings in state court, Oakes must:

- a. file a motion to lift the stay in this matter;
- b. file a motion to amend the habeas petition; and
- c. attach to the motion to amend:
 - i. a copy of the New Hampshire Supreme Court order or opinion serving as a final disposition of the state court exhaustion proceedings; and
 - ii. any notice of appeal, brief, motion, appendix, exhibit, order, or other document filed in or issued by the New Hampshire Supreme Court, or in any other state court, that demonstrates that the federal claims raised in this action have been fully exhausted.

Oakes's failure to comply with the terms of this order, or otherwise demonstrate exhaustion of the claims in his habeas petition (doc. no. 1), will result in this court's recommendation that the petition be dismissed without prejudice.

SO ORDERED.



Landya McCafferty
United States Magistrate Judge

January 15, 2013

cc: Mark L. Sist, Esq.

LBM:jba